IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 22ND FEBRUARY 2007 / 3RD PHALGUNA 1928

WP(C).No. 2419 of 2007(K)

PETITIONERS:

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1. S.M. BASHEER, S/O.SALI,
   T.C.NO.35/1028, ARAPPURA HOUSE,
   VALLAKADAVU, THIRUVANANTHAPURAM.

2. P. NABEESATH BEEVI, W/O.S.M.BASHEER,
   DO. DO.

BY ADV. SRI.G.SUDHEER

RESPONDENTS:

THE DISTRICT COLLECTOR,
THIRUVANANTHAPURAM DISTRICT,
COLLECTORATE, THIRUVANANTHAPURAM.

BY GOVT.PLEADER L.G.SURESH BABU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 22/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.2419 OF 2007

Dated 22nd February 2007

J U D G M E N T

This petition is filed under Article 226 of Constitution of India for writ of mandamus directing respondent to take a decision on Ext.P5 application within a time frame. Case of petitioner is that his properties were acquired under L.A.C.293/04 and dissatisfied with quantum of compensation awarded, he sought a reference under Section 18 of Land Acquisition Act and in spite of the application no reference was made and therefore seeks a direction to pass orders in Ext.P5 application.

2. Respondent filed a counter affidavit stating that award in the case was passed on 23/5/2005 and notice as provided under Section 12(2) of Land Acquisition Act was served on petitioner on 10/6/2005 and an application under Section 18 is to be filed within six weeks from 10/6/2005 and Ext.P5 application was received only on 2/8/2005 and it is barred by time and was therefore rejected on 20/10/2005 and decision

was intimated to petitioner by post.

2. Learned counsel appearing for petitioner and learned Government Pleader were heard.

3. Learned counsel appearing for petitioner submitted that petitioner did not receive any communication as alleged in the counter affidavit and he is not aware of such an order at all and therefore direction is to be issued as sought for. Learned Government Pleader pointed out that as petition under Section 18 was filed beyond the period of limitation, a reference cannot be made and it was dismissed and therefore petition is only to be dismissed.

4. Section 18(2) (b) of Land Acquisition Act provides that application for reference under Section 18 shall state ground on which objection to the award is taken and such application shall be made within six weeks of receipt of notice from the Collector under Sub Section 2 of Section 12 or within six months from the date of Collector's award, whichever period shall first expire. If the award was passed on 23/5/2005 and notice under Section 12(2) was served on 10/6/2005, period would first expire on the expiry of six weeks from 10/6/2005. If that be the case, petition under Section 18 was filed beyond that period. Respondent is

competent to reject the application. In view of submission of Government Pleader that order has already been passed on 20/10/2005, direction cannot be issued as sought for to dispose Ext.P5 application which has already been disposed of. As it was represented that no order rejecting Ext.P5 application was communicated to petitioner, respondent is directed to communicate, that order without any delay, to petitioner.

Writ petition is dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.